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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/057,356	01/25/2002	Brian Whitty	2774-001	2009

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EXAMINER

BRITTAIN, JAMES R

ART UNIT	PAPER NUMBER
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3677

DATE MAILED: 01/06/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/057,356

Applicant(s)

WHITTY, BRIAN

Examiner

James R. Brittain

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 October 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19, 22 and 23 is/are pending in the application.
- 4a) Of the above claim(s) 19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-18, 22 and 23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

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DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of Group I comprising claims 1-18, 22, and 23 in Paper No. 11 is acknowledged.

Claim 19 is withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 11.

Priority

Applicant has yet to perfect his claim for priority under 35 U.S.C. 120. MPEP 1895 sets forth the requirements to obtain benefit under 35 U.S.C. 120:

To obtain benefit under 35 U.S.C. 120 of a prior PCT application designating the U.S., the continuing U.S. national application must

(A) include an appropriate reference to the prior PCT application (either in the application data sheet (37 CFR 1.76) or in the first sentence of the specification),

* * >

(B) < be copending with the prior PCT application, and

* >

(C) < have at least one inventor in common with the prior PCT application.

See MPEP § 201.11. A U.S. national application is copending with an international application >(PCT)< if the prior international application was pending on the filing date of the subsequent U.S. national application.

If the prior application is an international application, the examiner must ascertain * > (B) < and * > (C) < above by either examining the national stage application file of the international application, or by examining the international application file, or requiring applicant to submit sufficient * > evidence to prove < that the international application was

compending with the U.S. national (35 U.S.C. 111(a)) application claiming benefit under 35 U.S.C. 120. >The evidence submitted to prove that the international application was compending with the U.S. national (35 U.S.C. 111(a)) application should include a certification from applicant that neither the international application nor the designation of the United States was withdrawn or considered to be withdrawn prior to the filing date of the U.S. national (35 U.S.C. 111(a)) application. Additionally, if the 20 month period from the priority date of the international application expired before April 1, 2002 and the U.S. national (35 U.S.C. 111(a)) application was filed later than 20 months from the priority date of the international application, the evidence should also include proof of filing a demand electing the United States within 19 months from the priority date. The proof of filing the demand may be in the form of a copy of the "Notification of Receipt of Demand by Competent International Preliminary Examining Authority" (Form PCT/IPEA/402) showing that the demand was received prior to the expiration of 19 months from the priority date, and a copy of the "Notification Concerning Elected Offices Notified of Their Election" (Form PCT/IB/332) showing the election of the United States.)< If the parent international application was not compending (i.e., abandoned or withdrawn), benefit under 35 U.S.C. 120 is not possible.

Applicant has failed to show (B) above. Applicant is required to submit sufficient evidence to prove that the international application was compending with the U.S. national (35 U.S.C. 111(a)) application claiming benefit under 35 U.S.C. 120. Review the above information and upon submitting the necessary documentation identified above, the denial of priority benefit will be reconsidered and priority granted if applicant can satisfy the above requirements.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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Claims 1-3, and 22 are rejected under 35 U.S.C. §103(a) as being unpatentable over Davies (WO 89/01455) in view of Westerkamp (US 4878270).

Davies (figures 1,2) teaches a leg rope connection device for connecting two portions of a broken leg rope including a housing 11 which encloses an end part of each of the two portions of a broken leg rope, and two clamping members (17,18) pivotally associated with the housing, the two clamping members being movable between a first position to enable positioning of a broken leg rope within the housing and a second position sufficiently close to the housing for compressive clamping of the two portions of broken leg rope between each of the two clamping members and the housing, whereby the two clamping members respectively associate with first and second portions of the broken leg rope in a manner such that each end part of the first and second portions of broken leg rope are retained within that the housing when subjected to typical forces applied to a leg rope when in use. The difference is that the housing is not made from a polymeric material. However, Westerkamp (figures 1-3,7) teaches rope clamping structure including the housing 22 which may be made of molded plastic or a metal casting of aluminum (col. 2, lines 54-58). Westerkamp thereby teaches plastic, a well-known polymeric material, as being a well known equivalent to metal such as aluminum and thereby having desirable hardness characteristics as well as desirable rigidity comparable to aluminum. As it would be desirable to make the housing of the connection device of Davies from a rigid material, it would of been obvious to modify the connection device of Davies so that the housing is plastic as taught by Westerkamp wherein plastic is a well known equivalent to aluminum.

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Claim 4 is rejected under 35 U.S.C. §103(a) as being unpatentable over Davies (WO 89/01455) in view of Westerkamp (US 4878270) as applied to claim 3 above, and further in view of Hoover (US 3256579).

Further modification of the connection device of Davies such that the clamping members are provided with a tool member would have been obvious in view of Hoover (figure 4, 5) who teaches the use of a tool 80 that has a stem portion 78 having a square cross section and a handle 82 that is fully capable of transferring torque if the stem is inserted within a square cross section recess of an article to be rotated.

Claim 23 rejected under 35 U.S.C. §103(a) as being unpatentable over Davies (WO 89/01455) in view of Westerkamp (US 4878270) as applied to claim 1 above, and further in view of Feyas (US 5685751).

Further modification of the connection device of Davies such that the exterior of the connection device is shaped to reduce frictional drag while moving through water would have been obvious in view of Feyas (figures 1-3) in which the connection device 12 is rounded on its exterior surface so as to inherently reduce frictional drag as the connection device moves through water.

Claims 5, 7-10, 12 and 18 are rejected under 35 U.S.C. §103(a) as being unpatentable over Davies (WO 89/01455) in view of Kettelman (US 848035).

Davies (figures 1,2) teaches a leg a rope connection device for connecting to portions of broken a leg rope including a leg a rope guide integrally formed within a housing, first and second clamping members operatively associated with the housing, each being rotatable about a hinge located at distal ends of the housing. Both the housing and clamping members have

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serrations or teeth that help grip the first and second portions of broken leg rope there between. The difference is that the clamping members lack arms. However Ketteman (figures 1-3) teaches that it is desirable to provide pivotally attached clamping members with arms so as to provide a mechanical advantage to enhance an operator's ability to provide a strong clamping force. As it would be advantageous to enhance the ability of the operator to provide a strong clamping force when using the connection device of Davies, it would have been obvious to modify the rope connection device of Davies so that each clamping member has an arm thereby providing a mechanical advantage when using the device as taught by Ketteman. As to claim 7, Ketteman suggests integrally forming the clamping arm.

Claim 6 is rejected under 35 U.S.C. §103(a) as being unpatentable over Davies (WO 89/01455) in view of Ketteman (US 848035) as applied to claim 5 above, and further in view of Leslie (US 800584).

Further modification of the connection device of Davies such that the leg a rope guide is substantially semi circular in cross section would have been obvious in view of Leslie (figures 1-3) teaching that it is common to have the receiving surface of the housing conform to the shape of a cable.

Claim 11 rejected under 35 U.S.C. §103(a) as being unpatentable over Davies (WO 89/01455) in view of Ketteman (US 848035) as applied to claim 5 above, and further in view of Feyas (US 5685751).

Further modification of the connection device of Davies such that the exterior of the connection device is shaped to reduce frictional drag while moving through water would have been obvious in view of Feyas (figures 1-3) in which the connection device 12 is rounded on its

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exterior surface so as to inherently reduce frictional drag as the connection device moves through water.

Claims 13-16 are rejected under 35 U.S.C. §103(a) as being unpatentable over Davies (WO 89/01455) in view of Ketteman (US 848035) as applied to claim 5 above, and further in view of Hoover (US 3256579).

Further modification of the connection device of Davies such that the clamping members are provided with a tool member would have been obvious in view of Hoover (figure 4, 5) who teaches the use of a tool 80 that has a stem portion 78 having a square cross section and a handle 82 that is fully capable of transferring torque if the stem is inserted within a square cross section recess of an article to be rotated. As to claim 14, duplication of the structure of Hoover so that it is applicable to both clamping members is a duplication of parts and is obvious. In regard to claims 15 and 16, the tool member suggested by Hoover is inherently interchangeable with an alternate tool if so desired and the use of an allen key, which is hexagonal sectioned is old and well known and is the equivalent of using a square cross section as taught by Hoover.

Claim 17 is rejected under 35 U.S.C. §103(a) as being unpatentable over Davies (WO 89/01455) in view of Ketteman (US 848035) as applied to claim 5 above, and further in view of Westerkamp (US 4878270).

Further modification of the connection device of Davies such that at least part of the device is manufactured from a rigid polymeric material would have been obvious in view of Westerkamp (figures 1-3, 7) teaching rope clamping structure including the housing 22 which may be made of molded plastic or a metal casting of aluminum (col. 2, lines 54-58) thereby establishing plastic as a well known equivalent to a metal such as aluminum for rope housings.

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Response to Arguments

Applicant's arguments are moot in view of the new grounds of rejection based upon Davies.

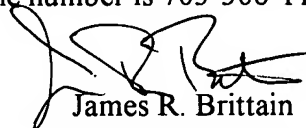
Conclusion

The patent of Agobian (US 1727687) (figure 3) and Plante (US 5070805) (figure 3) teach pertinent clamping structure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James R. Brittain whose telephone number is 703-308-2222. The examiner can normally be reached on M, W & F 5:30-1:30, T 5:30-2:00 & TH 5:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. J. Swann can be reached on 703-306-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9326.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.


James R. Brittain
Primary Examiner
Art Unit 3677

JRB